(17)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 686

MILES NATIONAL FARM LOAN ASSOCIATION,
Petitioner,

vs.

THE FEDERAL LAND BANK OF HOUSTON.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT AND SUPPORTING BRIEF.

SCOTT SNODGRASS,
Counsel for Petitioner.

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Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

To the Supreme Court of the United States:

Petitioner, Miles National Farm Loan Association petitions this Court to issue its Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit to review and reverse its decision reversing the action of the trial court and directing the dismissal of Petitioner's complaint.

Summary and Statement of the Matter Involved.

Miles National Farm Loan Association was formed within the jurisdictional area of the Federal Land Bank of Houston in the year 1917. Both it and the Federal Land Bank of Houston were created under the Federal Farm Loan Act and at the time of the trial of the cause in the

District Court slightly in excess of $577,000.00 in loans made by the Bank through the Association were outstanding, with the Association being liable as endorser or guarantor of these loans (R. 45 and 46).

Although the Association was entirely solvent, and although for some twenty-five years it had collected and serviced the loans made through it in a satisfactory and efficient manner, the Land Bank in the fall of 1942, desiring to merge the Association with another Association in Runnels County, attempted to take away from the Association its right to continue to service and collect the outstanding loans for which it was liable (R. 100-101), appointed an agent at Ballinger, Texas, some twenty miles east of Miles, to make collections on these loans (R. 53), and advised the borrowers to make no further payments to the Association (R. 31-2). The Association pleaded that as a result of the acts of the Bank its rights to conduct its business, to assist and supervise its member borrowers and to minimize its financial losses under its contract of guarantee were being interfered with (R. 6-7). It alleged that many of the borrowers were uncertain where and how to pay the maturing installments and that many of them were refusing to recognize the rights of the Association to collect and receipt for payments (R. 5 and 6), and the Bank in its answer admitted that many of the borrowers were refusing to recognize the rights of the Association to collect and receipt for payments and that it and the agent appointed by it were denying the existence of any such rights (R. 32).

The Association sought an injunction restraining the Bank from interfering with its rights to collect and service the loans for the payment of which it was liable as endorser or guarantor, and restraining the Bank and its agent from making collections on them or asserting to the member borrowers the authority of the Bank's agent to make collections and the want of authority on the part of the Associa-

tion to make them. It prayed that the Bank be required to recognize and respect its rights to service and make the collections (R. 7-8).

On April 28, 1943, the trial court rendered judgment directing that the Federal Land Bank of Houston recognize the right of the Miles National Farm Loan Association to collect payments on loans made through it, enjoining the Bank, its agents and employees, from interfering with the Association in its collecting and servicing of any loans made through it, and adjudicating that the Association was entitled to make collections on all loans for the payment of which it was liable. The judgment specifically provided that it should not affect the rights of the Bank in connection with foreclosures of delinquent loans or its rights "to look into servicing" (R. 103-104).

On appeal the Circuit Court of Appeals for the Fifth Circuit on December 8, 1943, reversed the judgment of the trial court and ordered the petition dismissed (R. 121). In its opinion the Circuit Court of Appeals held that the Bank had the right to authorize an agent to make collections on the loans involved and that a request that the borrowers pay this agent constituted no interference with any right of the Association (R. 121). The Court further held that the Association might still collect on the loans and that the Bank would be required to accept payment if tendered through it (R. 121).

Basis Upon Which It Is Contended That This Court Has Jurisdiction.

1. The jurisdiction of this court is invoked under U. S. C. A. Title 28, Section 347 (a); Judicial Code, Section 240, as amended.

2. The judgment of the Circuit Court of Appeals here sought to be reviewed was rendered December 8, 1943. At

the time of the preparation of this petition the opinion of the Circuit Court of Appeals had not been published. The opinion of the District Court is found in 49 Fed. Supp. p. 777.

3. The Circuit Court of Appeals has decided an important question of federal law which has not been, but should be, settled by the Supreme Court. The decision is one of first impression and it involves the interpretation of certain provisions of the Federal Farm Loan act under which all the twelve Federal Land Banks in the United States and the many National Farm Loan Associations operate. It appears by strong inference from the record itself that the appointment of an agent to collect and service the loans of the Miles National Farm Loan Association was a step in a general plan recently put in operation throughout the entire country rather than an action taken in the light of the situation or circumstances surrounding the particular Association. This inference is made even stronger by the fact that the eleven remaining Land Banks of the country as Amicus Curiae filed a brief in the Circuit Court of Appeals, and in that brief for practical purposes admitted the existence of a general plan, national in its scope, under which the smaller country Associations will be eliminated through grouping arrangements.

The question is of general public importance, particularly because the Circuit Court of Appeals has held that both the Association and the Bank have the legal right to make direct collections of the loans, and thus has laid the basis for serious confusion.

The Question Presented.

The question presented is whether the Circuit Court of Appeals erred in holding that the Miles National Farm Loan Association, while amply solvent, does not have the

right to service and to make installment collections on the loans endorsed and guaranteed by it free of any interference by the Federal Land Bank, acting either directly or through an agent appointed to collect such loans.

Reasons Relied On for Allowance of the Writ.

As stated above in Subdivision 3 under Petitioner's Contentions as to Jurisdiction, the Circuit Court of Appeals has decided an important question of federal law which has not been, but should be, settled by the Supreme Court. The Federal Land Banks and the National Farm Loan Associations play an extremely important part in the economic life of the country. The relative rights and obligations of each toward the other are matters of grave and widespread concern. In view of the apparent plan of the Land Banks to do away with a number of the smaller Associations there should be a clear and authoritative statement made of the rights and duties existing between the Banks on the one hand and their Associations on the other, and especially should there be an early statement of whether the Banks, over the objections of their Associations, may eliminate them from the Land Bank system and for all practical purposes take from them their rights personally to supervise their members and thus to protect their assets which stand behind their endorsements. The opinion of the Circuit Court of Appeals does not settle the question but, to the contrary, makes it more uncertain. It opens the way for a sort of tug of war between the Bank and an Association which does not wish to merge with the farmer borrower in between.

It is submitted that the Writ should be granted in order to correct this situation.

Petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Court, directed to the United States Circuit Court of Appeals for the Fifth Circuit, commanding that Court to certify and to send to

this Court for its review and determination, a full and complete transcript of the record and all proceedings in the cause numbered and entitled on its docket 10,747, Federal Land Bank of Houston, Appellant, v. Miles National Farm Loan Association, Appellee, and that the judgment of the United States Circuit Court of Appeals for the Fifth Circuit may be reversed and this petitioner may have such other and further relief in the premises as to this Honorable Court may seem lawful and just.

MILES NATIONAL FARM LOAN ASSOCIATION,
By SCOTT SNODGRASS,
Counsel for Petitioner.

SUPREME COURT OF THE UNITED STATES

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MILES NATIONAL FARM LOAN ASSOCIATION,
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vs.

THE FEDERAL LAND BANK OF HOUSTON,
Respondent.

SUPPORTING BRIEF.

To the Supreme Court:

We find no adjudicated cases which throw any light upon the problem now presented to the Court.

There are a few decisions which announce the obvious rule that the Land Banks and the National Farm Loan Associations are instrumentalities of the United States and that they are distinct corporate entities.

Smith v. *Kansas City Title & Trust Company, et al.*, 255 U. S. 180, 65 L. Ed. 577, 41 S. Ct. 243;

Federal Land Bank v. *Gaines*, 290 U. S. 247, 78 L. Ed. 298, 54 S. Ct. 168;

Federal Land Bank v. *Priddy*, 295 U. S. 229, 79 L. Ed 408, 55 S. Ct. 705;

Knox National Farm Loan Association v. *Phillips*, 30
U. S. 194, 81 L. Ed. 599, 57 S. Ct. 418;
Federal Land Bank v. *Bismarck Lumber Co.*, 314 U. S
95, 86 L. Ed. 65.

Both the Federal Land Banks and the National Far
Loan Associations have come into existence solely throug
the provisions of the Federal statute and each is just
important as the other in the scheme of the legislation.
is true that the Bank issues and markets the bonds, tha
it is the center through which must funnel all the variou
phases of activity required to transfer long term low inte
est credits from the large investors to the myriad small bo
rowers and that it must be managed by learned men traine
in the practices of finance. On the other hand, it equally
true that the Association is the primary placer of the ind
vidual loans. It is the local organization charged in th
first instance with determining the suitability of the bo
rower and his needs as measured by the purposes of the A
and it is required through endorsement or guaranty
back that determination with all its assets. It has the du
to follow and assist its members through the vicissitud
of their calling, and it is expected that it will be manage
by common men of the community familiar with the pro
lems of the borrowers and constantly in touch with chan
ing conditions local or personal in their nature or effect.

It is the intention of the Act that normally loans shall
made through the Associations and that loans otherwi
made are to be made only to meet some special circu
stance. This is apparent from a reading of the Act, and t
Annotations in U. S. C. A., Title 12, Paragraph 691, ref
to an opinion of the Attorney General, 31 Op. Atty. Ge
494, which indicates that the Attorney General so has rule

The question is not one of agency. The Associations a
local cooperative organizations of borrowers through whi

the Land Banks make their loans. *Federal Land Bank* v. *Bismarck Lumber Co.*, 86 L. Ed. at Page 71.

It is obvious that the Act intends for the Association to continue to serve some purpose after it has made its last loan. U. S. C. A., Title 12, Paragraph 714, says in so many words that the Secretary-Treasurer shall pay over the proceeds of the loan to the borrower and that acting under the direction of his Association he shall collect, receipt for and remit to the Bank payments on loans made through the Association. He is required to furnish bond covering the collection and transmission of the funds, to make quarterly reports to the Farm Credit Administration and from time to time as the occasion demands to make other reports in regard to the outstanding loans of his Association.

When the Secretary-Treasurer carries on the business of the Association he in effect is acting for and on behalf of the member borrowers who cooperatively have joined themselves together in the Association. It happens that in the present case the Miles Association has a surplus or reserve of about $17,000.00 (R. 70) to be protected against $577,036.41 total endorsements or guaranties (R. 45, 46). This surplus belongs to the Miles Association and it has been accumulated over the years through which that Association has functioned. The Association was formed and its loans were made and its obligations were incurred in the light of the provisions of the Farm Loan Act. Is it now to be destroyed and are the "principles of cooperate credit and organization" about which the Farm Credit Administrator is directed by Section 3 of the Act to inform and instruct the farmers now to be cast from the operating principles as originally laid down?

Argument of the amici curiae that Code Section 781 read with Code Section 714 must be interpreted as meaning that an approved and chartered Association can continue to func-

tion as such only under permission from the Bank seems possibly to have its source more in the desire for an end than in a careful consideration of the two sections read with the other provisions of the Act and interpreted in the light of the unquestioned fact that the very basis of the plan insofar as the borrowing farmer is concerned is the local cooperative organization.

Section 791 of the Code which is Section 14 of the Act originally provided that all loans should be made through local associations except as provided in Section 15. Section 15 authorized direct loans to borrowers by the Bank only upon authorization from the Federal Farm Loan Board after its determination that "because of peculiar local conditions" no Association probably would be formed in the locality involved. Code Section 723 now provides for direct loans only under certain conditions therein specified.

It is apparent that from the first it was provided that in exceptional circumstances loans might be made other than through Associations and if Section 781 of the Code which authorizes the Bank "to empower National Farm Loan Associations, or duly authorized agents, to collect and immediately pay over to said Land Banks" payment on its loans is to be read in complete harmony with Code Section 714 which specifically provides that the Secretary-Treasurer shall make collections of and receipt for payments of the loans through his Association, then it seems reasonable that the quoted provision of Code Section 781 should be construed so as to apply to those loans not made through Associations.

Petitioner feels that it is as much an integral part of the system created and put in effect by the Federal Farm Loan Act as is the Respondent and it feels that when it acts in regard to its loans, either by collecting payments thereon from its members or otherwise, that it is acting for itself

and for its member borrowers and not for the Land Bank at Houston. Its right so to act flows from its statute of creation and not from any permission granted by the Bank.

The plan of the Banks to destroy local Associations through grouping and consolidation may aim at a more efficient collection of the loans outstanding but it necessarily destroys the local cooperative control which Congress decreed proper to effect the purpose and end it had in view. It is submitted that the advisability of such a step should be determined by the makers of the law.

We feel that the Associations are as important as are the Land Banks. The Associations, because of their surpluses, now have a great deal of money.

We feel that the Supreme Court should rule on this case so that there will be no uncertainty in relation to the point presented.

Petitioner suggests that as an endorser and guarantor under the provisions of the Act it has certain vested rights in connection with the loans made by it, among which is the right to collect or assemble the payments of its members and transmit them to the Bank.

Respectfully submitted,

SCOTT SNODGRASS,
Counsel for Miles National
Farm Loan Association.

(15)

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v.

THE FEDERAL LAND BANK OF HOUSTON, *Respondent.*

REPLY TO PETITION FOR WRIT OF CERTIORARI TO UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

DAN MOODY,
Attorney for Respondent
The Federal Land Bank of Houston.

YOUNG CO., HOUSTON

SUBJECT INDEX

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REPLY TO PETITION FOR WRIT OF CERTIORARI TO UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

To Said Honorable Court:

The summary and statement of the matter involved as made by petitioner omits mention of the material facts: That the loans, the collection and servicing of which is involved, are represented by promissory notes payable to respondent, The Federal Land Bank of Houston (R., page 45); the notes are each endorsed and the payment thereof guaranteed by petitioner, Miles National Farm Loan Association. (R., pages 45 and 46.)

No question of destroying or dissolving respondent national farm loan association or of attempt by The Federal Land Bank of Houston to coerce it to merge with another national farm loan association is involved.

No question of contractual right of the association

to collect and service the loans is involved and none was claimed by petitioner in the Circuit Court of Appeals. (R., page 119.)

The case involves merely the question of who has the right under the Federal Farm Loan Act and under general principles of law to make collections on and service notes payable to The Federal Land Bank of Houston and owned by it.

The opinion of the Circuit Court of Appeals is published in 159 Federal Reporter, 2nd series, pages 422-424.

Reasons Why the Writ Should Be Denied.

(1) This Court in the following cases has considered the organization, operations, and functions of Federal land banks and the national farm loan associations and their relationship to each other:

Smith v. Kansas City Title and Trust Company et al., 255 U. S. 180.
Federal Land Bank v. Gaines, 290 U. S. 247.
Federal Land Bank v. Priddy, 295 U. S. 229.
Knox National Farm Loan Association v. Phillips, 300 U. S. 194.
Federal Land Bank v. Bismarck Lumber Company, 314 U. S. 95.

The above cases leave no doubt or uncertainty as to the relationship of a land bank and national farm loan association within its district. Each is a distinctly different corporation. Neither is by virtue of the Federal Farm Loan Act an agent of the other.

In *Federal Land Bank v. Gaines*, 290 U. S. 247,

this Court construed the Federal Farm Loan Act to contemplate that the Federal Land Bank was to be the lender and as lender it was to become the owner of the note and the mortgage in which it was named respectively as payee and mortgagee; the maker of a note and the association by its endorsement agreeing to become liable for payment of the note were to become co-obligors on the note.

It was held also in the *Gaines* case that a national farm loan association when acting in the furtherance of its duties under U. S. C. Sections 714 and 761 in disbursing proceeds of a Federal land bank loan to a borrower was not acting as agent for the land bank.

In *Federal Land Bank v. Bismarck Lumber Company*, 314 U. S. 95, this Court in discussing the functions and operations of Federal land banks and national farm loan associations said (314 U. S. 102):

> "As a part of their general lending functions, the land banks are authorized to foreclose their mortgages and purchase the real estate at the resulting sale."

The opinion of the Circuit Court of Appeals is in harmony with the previous announcements of this Court as to the relationship and functions of the Federal Land Bank and the national farm loan associations.

(2) The question involved in the instant case is answered by application of the principles announced by this Court in the case of *Federal Land Bank v.*

Gaines, 290 U. S. 247, and *Federal Land Bank v. Bismarck Lumber Company,* 314 U. S. 95.

Section 781, Title 12, U. S. C., enumerates certain powers which every Federal land bank shall have, and one of those powers enumerated in Sub-section Third, hereinabove quoted, is:

> "* * * to empower national farm loan associations or duly authorized agents to collect and immediately pay over to said land bank the dues, interest, amortization installments, and other sums payable under the terms and conditions and covenants, of the mortgages and bonds secured thereby. * * *"

Section 714 U. S. C. provides:

> "It shall be the duty of the secretary-treasurer of every national farm loan association to act as custodian of its funds and to deposit the same in such bank as the board of directors may designate to pay over to borrowers all sums received for their account from the Federal land bank upon first mortgages as in this chapter prescribed and to meet all other obligations of the association subject to the orders of the board of directors and in accordance with the by-laws of the association. It shall be the duty of the secretary-treasurer acting under the direction of the national farm loan association to collect, receipt for, and transmit to the Federal land bank payments of interest, amortization installments, or principal arising out of the loans made through the association. * * *."

Facts in the case *Federal Land Bank v. Gaines,* 290 U. S. 247, were: Respondent Gaines applied to The

Federal Land Bank of Columbia through the Columbus National Farm Loan Association for a loan, and at the same time applied for membership in the national farm loan association. She executed promissory note to The Federal Land Bank of Columbia secured by a mortgage upon her land, both of which she delivered to the land bank. The note was endorsed and payment thereof guaranteed by the association. The land bank check for the amount of the loan payable to the secretary-treasurer of the association and to Mrs. Gaines was delivered to the association. The check was deposited by the association in a commercial bank to the credit of the association. The commercial bank immediately after collecting the check closed its doors and the funds were not available to the association nor to Mrs. Gaines. The suit was brought by Mrs. Gaines to cancel the mortgage given by her as invalid for want of consideration.

The question involved was whether or not when the association, as authorized by Section 761, Title 12, U. S. C., received from the Federal land bank funds advanced by the land bank to be delivered to a borrower, by the association's secretary-treasurer acting pursuant to Section 714, Title 12, U. S. C., it did so as an agent of and for the Federal land bank. This Court held not so, stating at page 254:

> "The State Court rested its decision on the characterization of the association as a public agent but it did not hold that the association was in any sense an agent of the lender bank. It could not have well done so for neither the provisions of the Federal Farm Loan Act nor the

particular circumstances which attend the loan in the present case gave the petitioner bank any right of control over the association or any power to recall the check or its proceeds after its delivery and collection. The association was controlled by directors elected by its own members who like the respondent were borrowers. After the check was delivered to the association it passed completely from the control of the lender and into the exclusive control of the payees (borrower and association) who were the obligors of the mortgage and debt."

Thus this Court has held that when the secretary-treasurer of the association carrying out the functions of the association performs the duty set out in the first sentence of Section 714 that he is not performing that duty for the land bank, but for the national farm loan association. The duty stated in the second sentence, that is, "to collect, receipt for, and transmit to the Federal land bank payments of interest, amortization installments, or principal arising out of loans made through the association" is of the same nature and performed under the same circumstances and arrangements, and it follows that the same rule is applicable to both functions.

The duty of the secretary-treasurer set out in Section 714 is not performed for the land bank unless the land bank exercising the authority granted it by Section 781, U. S. C., Paragraph Third, "to empower national farm loan associations, or duly authorized agents, to collect and immediately pay over to said land banks the dues, interest, amortization install-

ments, and other sums payable under the terms, conditions and covenants of the mortgages and bonds secured thereby" empowers the association to act for it.

The Circuit Court of Appeals in the instant case held that a national farm loan association may collect interest and amortization installments due by its members on loans endorsed by it and may remit the items collected to the land bank, but that in so doing it did not act as agent for the Federal land bank but on its own behalf and for its borrower-members. To that extent the question involved in the instant case involves the application of the rule announced in the *Gaines* case, and the question is controlled and decided by that case.

In *Federal Land Bank v. Bismarck Lumber Co.*, 214 U. S. 94, this Court in discussing the functions and operations of Federal land banks and national farm loan associations at page 102, said:

> "As part of their general lending functions the land banks are authorized to foreclose their mortgages and purchase the real estate at the resulting sale."

The Circuit Court of Appeals in holding that The Federal Land Bank of Houston had the right to collect the amount due and owing to it on loans endorsed by the national farm loan association merely applied the principle announced in the *Bismarck Lumber Company* case. The holding that The Federal Land Bank of Houston had the right to collect the amount due and owing it on loans endorsed by the national farm loan association naturally followed from the fact

that the land bank is the lender, as it was stated to be by this Court in the *Gaines* case and from the announcement by this Court in the *Bismarck Lumber Company* case that the land banks are authorized to foreclose their mortgages.

Therefore, the question of whether or not a national farm loan association has the right to collect and service for The Federal Land Bank of Houston notes payable to and owned by said bank and endorsed by said association against the will of the land bank and without such interference as might result from the Federal Land Bank making its own collections, has actually been passed upon by this Court if not in fact, at least in principle.

(3) Petitioner substantially admits the correctness of the opinion of the Circuit Court of Appeals.

Petitioner in its supporting brief argues that the land bank and a national farm loan association are distinct corporate entities. It further argues that when the secretary-treasurer carries on the business of the association, he is acting for and on behalf of the member-borrowers, and when the association acts in regard to its loans, either by collecting payments thereon from its members, or otherwise, that it is acting for itself and its borrower-members and not for The Federal Land Bank of Houston. The opinion of the Circuit Court of Appeals recognizes the correctness of this argument by saying (139 Fed. (2d) 224):

> "We think, however, the duty laid on the secretary-treasurer of the association to collect and remit is for the safety of the association as guar-

antor and for the convenience of the member borrowers. The Secretary Treasurer is under bond. Payments to him by the borrower are not payments to the Bank until remitted, unless the Bank has empowered the Association to collect for it. If borrowers prefer to remit direct to the Bank they may. If the Bank prefers, it may request direct payments, but cannot prevent the borrowers from paying through their association if they wish to. That this is the relationship between the Bank and the association is substantially ruled in Federal Land Bank v. Gaines, 290 U. S. 247; 54 Sup. Ct. 168; 78 L. Ed. 298. In that case it was the 'duty of the Secretary Treasurer * * * to pay over to borrowers all sums received for their account from the Federal Land Bank upon first mortgage,' 12 U. S. C. A., Sec. 714, but the duty was held to be owing to the borrowing members of the Association, so that the Bank was not responsible for his default."

Thus we think the Circuit Court of Appeals granted petitioner the right to collect, which it argues it is entitled to. The Circuit Court of Appeals merely denied it the right to do so for and on behalf of the bank, and held that the association was not entitled to an injunction restraining the Federal Land Bank from collecting and servicing its own loans.

Petitioner complains of what it mentions as a plan of the bank to destroy local associations through grouping and consolidation. That matter is not raised by their pleading, was not raised in the trial court, nor in the Circuit Court of Appeals, and is not involved in this case. Actually this matter about which petitioner complains is not in anywise involved in

this case. Petitioner purports to set up as a question presented the question of whether or not the Miles National Farm Loan Association may make collections of installments on loans endorsed by it, yet that particular question was answered in favor of the association by the Circuit Court of Appeals.

(4) The rights of petitioner and respondent are clearly defined under the previous decisions of this Court and the decision of the Circuit Court of Appeals in the instant case.

There is no provision in the Federal Farm Loan Act (Title 12, Chapter 7, U. S. C.) which expressly or by implication denies a Federal land bank the right to collect payments owing it on obligations executed to it, payment of which are guaranteed by a national farm loan association. This Court in the *Gaines* case stated that that Act plainly contemplated that the land bank was to be the lender and as the lender it was to become the owner of the note and mortgage in which it was named respectively as payee and mortgagee. This Court further stated in that case that the association by endorsement and agreement to become liable for the payment of the notes was in a position of a surety or guarantor. In the *Bismarck Lumber Company* case, this Court stated that the land bank had authority to foreclose its mortgage. In the *Gaines* case the Court recognizes that a national farm loan association in receiving from the bank loan proceeds to be disbursed to a borrower and in performing functions incidental to closing the loan does so for itself and on behalf of its borrower-members. The Circuit

Court of Appeals in the instant case recognized and merely applied the announcements of this Court in each of those cases. It held that the national farm loan association acting on its own behalf and for the convenience of the borrower members may make collections of sums owing the Federal land bank in the loan for which it is a surety and guarantor. That payments made to the national farm loan association are not payments to the bank until remitted unless the bank has empowered the association to collect for it. It held that the bank may request that payments be made direct to it or its duly authorized agent; that the borrower may make his payments either to the association to be transmitted by it to the bank or may make his payments directly to the bank; that the bank cannot prevent the borrowers from paying their association if they wish but must accept payment if tendered through the association; but the Circuit Court, as obviously it should have, held that the association did not have the exclusive right to collect and service loans of the Federal land bank which loans were owned by and payable to the Federal land bank.

The land bank when it collects and services the notes owned by and payable to it acts simply as any other owner of a note acts in doing the same things. It is a lender and payee asserting a contractual right to be repaid by the person obligated to repay it. When the association, which is a guarantor and co-obligor, collects it does so as a surety and guarantor to protect itself against loss because of its endorsement and guaranty. These rights are fundamental.

The holding of the Circuit Court of Appeals is not

confusing or indefinite, but is in keeping with the Federal Farm Loan Act, with the constructions of the Act by this Court, and with general principles of law.

WHEREFORE, Respondent prays that said petition for Writ of Certiorari and for review on Writ of Certiorari be in all things denied.

DAN MOODY,
Attorney for Respondent
The Federal Land Bank of Houston.

Address of Counsel:
DAN MOODY,
Norwood Building,
Austin, Texas.

A copy of this brief has been furnished Scot Snodgrass, San Angelo, Texas, attorney for petitioner.

DAN MOODY.